

Amy C. O'Hara, CELA
Littman Krooks LLP
Rye Brook, NY
www.littmankrooks.com

Ten-ish Medicaid Regulations You'll Want to Know

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Meet the Snyder Family

Tom and Barbara Snyder, both high school teachers, meet with you to discuss special needs planning for their daughter, Katie. Katie is 16 years old, vibrant and social, but she has moderate developmental disabilities that will likely prevent her from living entirely independently as an adult. The Snyders also have a younger son, Peter, age 14, who is healthy and active. Like many parents in their situation, Tom and Barbara are focused on providing for both children fairly while ensuring Katie has lifelong care, support and services. Right now, the family is financially stable. Tom and Barbara's combined income is comfortable, and they've always managed to meet their household needs. But as they look to the future, they want to make sure Katie is protected.

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Tom and Barbara were advised by friends and Katie's school that they should apply for Supplemental Security Income (SSI) for Katie, and they are looking to you for guidance. Katie is not working, has no income, and has no assets in her name.

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20 C.F.R. § 416.1856 – Who is considered a child

The SSA considers Katie a child if:

- (a) (1) She is under 18 years old; or (2) she is under 22 years old and a student regularly attending school or college or training that is designed to prepare her for a paying job;
- (b) She is not married; and
- (c) She is not the head of a household.

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20 C.F.R. § 416.202 – Who may get SSI benefits

Katie is eligible for SSI benefits if she meets ALL of the following requirements under this regulation which, *in part*, include:

- Katie are aged 65 or older, blind or disabled.
 - Katie – under 18: SSA will consider her disabled if she has have a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months. (§416.906)
 - Katie – over 18: inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. (§416.905)

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20 C.F.R. § 416.202 – Who May Get SSI Benefits

- Katie does not have more income than is permitted.
 - Income is anything that Katie receives in cash or in-kind that she can use to meet her needs for food or shelter. (§416.1102)
- Katie does not have more resources than are permitted.
 - Resources means cash or other liquid assets or any real or personal property that an individual owns and could convert to cash to be used for Katie's support and maintenance. (§416.1201)

Based upon the foregoing, Katie is eligible for SSI – right? But wait, not so fast ...

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20 C.F.R. § 416.1160 – Deeming of income - child

The SSA uses the term deeming to identify the process of considering another person's income to be your own. When the deeming rules apply, it does not matter whether the income of the other person is actually available to you.

The SSA will look at Katie's parents' income to decide whether it must deem some of it to be Katie's. This is done because the SSA expects Katie's parents to use their income to take care of her needs.

See also: § 416.1165

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20 C.F.R. § 416.1202 (b) – Deeming of resources - child

In the case of Katie who is under age 18, the SSA will deem to her child any resources, not otherwise excluded, of her ineligible parents who are living in the same household with her. The SSA will deem to Katie her parents' resources whether or not those resources are actually available to her.

Resource limit: \$2,000

Katie's parents have more than \$2,000 in non-excluded resources.

Katie is not eligible for SSI while she is under 18. She must wait until she turns 18 to apply for SSI.

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Katie is now 18 years old, lives at home and is expected to remain in school until she ages out at 21. Tom and Barbara now apply for SSI for Katie. They would like to maximize Katie's SSI benefit enabling her to qualify for the highest amount possible. For 2025, the monthly maximum is \$967.

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20 C.F.R. § 416.1130 – Introduction to ISM

Both earned income and unearned income include items received in-kind. Generally, the SSA values in-kind items at their current market value, and it applies the various exclusions for both earned and unearned income. However, the SSA has special rules for valuing shelter that is received as in-kind support and maintenance (ISM), which is a type of unearned income.

See generally: §§ 416.1130 through 416.1141

Katie lives with her parents in a home they own.

The SSA ISM Katie receives in the month to determine her SSI benefit.

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20 C.F.R. § 416.1130 – Introduction to ISM

- The SSA calculates ISM by considering any shelter that is given to Katie or that she receives because someone else pays for it. Shelter includes room, rent, mortgage payments, real property taxes, heating fuel, gas, electricity, water, sewerage, and garbage collection services.
- The SSA has two rules for valuing ISM:
 - The one-third reduction rule applies if you are living in another person's household, you receive shelter from others living in the household, and others within the household pay for or provide you with all of your meals.
See §§ 416.1131 through 416.1133.
 - The presumed value rule applies in all other situations in which you receive countable in-kind support and maintenance
See §§ 416.1140 and 416.1141.
- Effective 9/30/2024, food is no longer included in ISM calculations.

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ISM Calculation for Katie living with parents rent-free

1. The SSI Federal Benefit Rate is \$967.00.
2. One-third of the SSI Federal Benefit Rate of \$967.00 is \$322.33.
3. \$322.33 (1/3 of the Federal Benefit Rate)
 +\$20.00 (from the PMV rule)

 =\$342.33 (the PMV of in-kind support and maintenance)
4. \$342.33 (the PMV of in-kind support and maintenance)
 -\$20.00 (general income exclusion)

 = \$322.33 (the amount of the reduction due to in-kind support and maintenance)
5. \$967.00 (Federal Benefit Rate)
 -\$322.33 (reduction due to in-kind support and maintenance)

 = **\$644.67 (Katie's SSI benefit amount)**

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20 C.F.R. § 416.1130 (b)(1) – Paying rent

- Katie is not receiving ISM in the form of room or rent if she is paying the amount charged under a business arrangement. A business arrangement exists when the amount of monthly required rent to be paid equals or exceeds the presumed maximum value described in § 416.1140(a)(1) (\$342.33 for 2025).
- Katie enters into a room and board contact with her parents for \$500 enabling her to receive the full SSI benefit of \$967/month.

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Katie is now 28 years old. She and her brother Peter are moving into a rental apartment. The rent is \$1,500 per month, with each sibling responsible for one-half. Tom and Barbara would like to help with Katie's share of the rent, but they want to ensure that their assistance does not trigger an ISM reduction in Katie's SSI payment. How can they provide support without reducing her benefits?

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Options

- Pay Katie's landlord directly for her \$750 share.
- Give Katie \$750 in cash each month, which she then pays to the landlord.
- Pay part of the household utilities instead of rent.
- Contribute \$750 into Katie's ABLE account, which she can then use to pay her rent.

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Analysis

- A. Pay Katie's landlord directly for her \$750 share.
 - Trigger ISM since they are paying her housing directly.
- B. Give Katie \$750 in cash each month, which she then pays to the landlord.
 - Cash given directly to SSI recipient is treated as unearned income. If Tom and Barbara did this, Katie's SSI benefit would be reduced dollar-for-dollar after a \$20 disregard
- C. Pay part of the household utilities instead of rent.
 - Trigger ISM since they are paying her housing directly
- D. Contribute \$750 into Katie's ABLE account, which she uses to pay her rent.

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26 C.F.R. §§ 1.529A-0 - 1.529A-8 Qualified ABLE Programs

- Tax-advantaged savings for people with disabilities
- Disability must have begun before age 26 (expanding to 46 in 2026)
- Contributions: annual IRS limit (currently \$19,000)
- SSI disregards balances up to \$100,000
- Non-qualified withdrawals: taxable + 10% penalty
- Distributions can be made for Qualified Disability Expenses (QDEs) including **housing**, education, transportation, therapy, assistive technology.

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26 C.F.R. §§ 1.529A-0 - 1.529A-8 Qualified ABLE Programs

- One major benefit: distributions used for housing are **not treated as ISM** if they flow through the ABLE account.
- Katie's parents can fund an ABLE Account and \$750 can be withdrawn each month to pay for Katie's share of the rent resulting in no ISM calculation and no impact on Katie's SSI benefit.
- ABLE Account can provide Katie with some additional independence as well.

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In fostering Katie's independence, Tom and Barbara would like to understand which resources Katie may own that will not be counted for SSI eligibility purposes.

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**SSI does not count the following resources
(if owned by Katie)**

- The home Katie lives in and the land it is on (§416.1212)
- Household goods and personal effects (§416.1216)
- Life insurance policies with a combined face value of \$1,500 or less (§416.1230)
- One vehicle, regardless of value (§416.1218)
- Burial space (§416.1201)
- Burial funds valued at \$1,500 or less (§416.1201)
- Up to \$100,000 of funds in an ABLE account (POMS SI 01130.740, D.1)

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Katie has found a partner, Charlie, with whom she wants to spend the rest of her life. The Snyders are delighted, they love Charlie and are grateful for the respect and companionship he shows Katie. Now, Katie and Charlie want to get married. Tom and Barbara return to you for guidance: What effect would marriage have on Katie's SSI benefits?

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Options

- A. Nothing changes, SSI is an individual benefit and marriage has no effect.
- B. Katie's SSI is automatically terminated when she marries.
- C. If Charlie has income and/or assets they will be counted toward Katie, which may reduce or eliminate her SSI.
- D. Katie's SSI will increase because she is now part of a married couple.

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20 C.F.R. § 416.1801 (c) – Eligible Spouse

Charlie is an eligible spouse if:

- He is eligible for SSI
- SSA considers his spouse Katie as eligible for SSI, and
- They live together in the same household

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20 C.F.R. § 416.1802 (a) – Effects of marriage on eligibility

- If Charlie is an ineligible spouse and Katie receives SSI benefits and they are living in the same household:
 - **Counting Income:** SSA may count part of Charlie's income as Katie's income. Counting part of Charlie's income may reduce the amount of Katie's benefits or even make her ineligible. See § 416.1163 explains how SSA counts income for an individual with an ineligible spouse.
 - **Counting Resources:** SSA counts the value of Charlie's resources (money and property), minus certain exclusions, as Katie's when they determine Katie's eligibility. See § 416.1202(a) regarding deeming of resources for a married individual.

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20 C.F.R. § 416.1802 (b) – Effects of marriage on eligibility

- If Charlie is an eligible spouse and Katie receives SSI:
 - Counting income. SSA will count their combined income and calculated the benefit amount for them as a couple.
 - Counting resources. SSA will count the value of their combined resources (money and property), minus allowable exclusions, and use their resource limit when they determine your eligibility. \$3,000 – see §416.1205.

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Options - Analysis

- A. Nothing changes, SSI is an individual benefit and marriage has no effect.
 - Not correct
- B. Katie's SSI is automatically terminated when she marries.
 - SSI isn't automatically cut off, it depends on Charlie's income and resources
- C. If Charlie has income and/or assets they will be counted toward Katie, which may reduce or eliminate her SSI.
 - When Katie marries, Charlie's income and resources are "deemed" to Katie. If Charlie has little or no income/resources, Katie may still qualify. But if Charlie works or has assets, Katie's SSI will likely be eliminated
- D. Katie's SSI will increase because she is now part of a married couple.
 - If Charlie is an eligible spouse the maximum combined amount is \$1,450 (2025)

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Tom and Barbara, both 68, are now retired and collect Social Security retirement benefits.

How does this change Katie's SSI benefit?

Is the analysis different if Katie marries Charlie and she now receives a Social Security Disability Insurance (SSDI) Disabled Adult Child (DAC) benefit?

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20 C.F.R. § 404.350 – Who is entitled to child's benefits?

- Katie is entitled to child's benefits on the earnings record of an insured person who is entitled to old-age or disability benefits or who has died if Katie:
 - (1) is the insured person's child;
 - (2) is a dependent on the insured (natural child);
 - (3) applies;
 - (4) is **unmarried**; and
 - (5) under age 18; or is **18 years old or older and has a disability that began before she became 22 years old**; or 18 years or older and qualify for benefits as a full-time student as described in § 404.367.

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Social Security Disability Insurance – Disabled Adult Child

- SSA will pay SSDI benefits to Katie because her disability began before the of 22 provided she is not married. It is considered a "child's" benefit because it is paid on a parent's Social Security earnings record. Katie's DAC benefits will continue for as long as she has a disability and she remains unmarried. Katie does not need to have worked to get these benefits.

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Thank you!

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